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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,474	09/23/2003	Heinz Hermann Wippersteg	2725	2948

7590 12/09/2008  
STRIKER, STRIKER & STENBY  
103 East Neck Road  
Huntington, NY 11743

EXAMINER
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BENZON, OREG C

ART UNIT	PAPER NUMBER
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2444

MAIL DATE	DELIVERY MODE
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12/09/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/668,474

**Applicant(s)**

WIPPERSTEG, HEINZ HERMANN

**Examiner**

GREG BENZON

**Art Unit**

2444

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-5,7-21 and 23-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-21, 23-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This application has been examined. Claims 1,3-5, 7-21, 23-37 are pending.  
Claims 2,6,22 are cancelled.

### ***Making Final***

Applicant's arguments filed 08/07/2008 have been fully considered but they are not persuasive.

The claim amendments regarding -- '*said receiver generates question postings and forward them to the data exchange network*' -- and -- '*said provider generates answers answer data sets in response to the question postings*' -- do not overcome the disclosure by the prior art as applied in the prior Office Action, as shown below.

The Examiner is maintaining the rejection(s) using the same grounds for rejection and thus making this action FINAL.

### ***Priority***

This application claims benefits of priority from Foreign Application 10245169.9 (GERMANY) filed September 26, 2002.

The effective date of the claims described in this application is September 26, 2002.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,3-5,8,12-14, 16-21 rejected under 35 U.S.C. 103(a) as being unpatentable over Frees (US Patent 6769013) further in view of Schneider (US 6990459).

The Examiner notes that with respect to the limitation '*answer data sets for optimizing an employment of machines*', the claim language does not indicate wherein the user is able to use said answer data set for an optimal result in the agricultural process. There is no agricultural process or result in the claim language. The Examiner is not assigning patentable weight to the information contained in the answer data set because said information has no bearing on the results produced by the claims.

Frees disclosed (re. Claim 1,18,19) a system based on electronic data exchange, in which the data exchange occurs between a plurality of users by means of at least one

data exchange system and each of said users is operable as both a server and a receiver of information, (Frees-Figure 16, Figure 17, Column 2 Lines 25-35)

wherein at least one user of at least one data transmission network generates required information according to specific standards, (Frees-Column 15 Lines 15-20)

said at least one user functioning as said server, (Frees-Column 12 Lines 60-65)  
and

*said receiver generates question postings* (Frees-Column 12 Lines 60-65)  
*which are transmitted to the server according to specific standards* (Frees-Column 15 Lines 15-20, 'user enter standard process information', Column 18 Lines 1-5) and  
*said server generates answers in the form of services standards* (Frees-Column 12 Lines 60-65) *in response to the question postings and transmits said answers to said receiver according to specific* (Frees-Column 15 Lines 15-20, 'user enter standard process information', Column 18 Lines 1-5)

Frees disclosed coaching and brainstorming among collaboration members using various information exchange tools. The Examiner notes that said coaching, consulting and brainstorming conversations would include question and answer portions. Furthermore Frees disclosed different types of businesses that may employ the collaboration system including industrial companies with national or international market, such as those for *producing agricultural products*. (Frees-Column 5 Lines 35-55)

While Frees substantially disclosed the claimed invention Frees did not disclose (re. Claim 1) a service for optimizing the processing chain and/or the management chain for producing agricultural products.

Schneider disclosed (re. Claim 1) a service for optimizing the processing chain and/or the management chain for producing agricultural products. (Schneider-Column 3 Lines 60 thru Column 4 Lines 55)

Schneider disclosed (re. Claim 1) providing information wherein said provider creates answer data sets which is a required information, and which contain extending or background information which have not been required, but which will be useful for an efficient processing and/or management chain in agricultural content for optimizing an employment of machines selected from the group consisting of availability, reducing stand still, full capacity use, and if the machine is in operation for optimizing a cooperation/team work process between the machines among themselves or between the machines and processing plants/facilities, selected from the group consisting of drying plant, storage operator, further processing, of a processing chain, and for optimizing an efficiency of the machines involved in the processing chain by adjusting process elements of the machines. (Schneider-Column 3 Lines 60 thru Column 4 Lines 55)

Frees and Schneider are analogous art because they present concepts and practices regarding collaboration and knowledge exchanges regarding agricultural and food business entities. At the time of the invention it would have been obvious to a person of ordinary skill in the networking art to combine Schneider into Frees . The motivation for said combination would have been to enable an optimized farm management plan. (Schneider-Column 3 Lines 45-55)

Frees-Schneider disclosed (re. Claim 19) wherein said server makes said required information, adjusted to said needs of said at least one other user, available to said at least one other user in the form of a service. (Frees-Column 7 Lines 20-30)

Frees-Schneider disclosed (re. Claim 3) wherein server groups identify themselves as services that are accessible to said at least one user. (Frees-Column 5 Lines 1-5, Column 7 Lines 20-30)

Frees-Schneider disclosed (re. Claim 4,20) wherein said server defines access rights to said service. (Frees-Column 11 Lines 25-30)

Frees-Schneider disclosed (re. Claim 5,21) wherein said server makes said required information available in timely manner as part of said service and makes said required information, adjusted to said needs of said at least one other user operating as said receiver, available to said at least one other user. (Frees-Column2 Lines 25-35)

Frees-Schneider disclosed (re. Claim 6) wherein said receiver generates question postings, which are transmitted by means of said at least one data transmission network to said server providing said service and wherein said service of said server comprises answering said question postings. (Frees-Column 15 Lines 35-40)

Frees-Schneider disclosed (re. Claim 8) wherein said service of said server is permanently or temporarily connected as need requires to said receiver generating said question postings. (Frees-Column 5 Lines 10-15)



Frees-Schneider disclosed (re. Claim 12) wherein said server providing said service is a stationary unit or a mobile unit and wherein said stationary unit or said mobile unit communicates via said at least one data exchange system with said receiver and/or said server. (Frees-Column 4 Lines 40-50)

Frees-Schneider disclosed (re. Claim 13) wherein said server and said receiver alternately exchange said required information by means of said at least one data exchange system. (Frees-Figure 1B, Column 6 Lines 10-15, Column 12 Lines 65)

Frees-Schneider disclosed (re. Claim 14) wherein said at least one data exchange system is global or spatially limited. (Frees-Column 5 Lines 40-50, Column 12 Lines 55-60)

Frees-Schneider disclosed (re. Claim 16) wherein said information generated by said users in said data transmission network is generated in a standardized format. (Frees-Column 18 Lines 1-5)

Frees-Schneider disclosed (re. Claim 17) wherein said users comprise machines and/or businesses engaged in planting, caring for, harvesting, storing and/or processing of agricultural products; machine manufacturers; (Frees-Column 5 Lines 40-45, Schneider-Column 3 Lines 60 thru Column 4 Lines 55) weather services; crop advisory services and planting.

Schneider disclosed (Claim 30, 31) means for providing information about product properties and conditions of products to be processed. (Schneider-Column 3 Lines 60 thru Column 4 Lines 55)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26-37 rejected under 35 U.S.C. 103(a) as being unpatentable over Frees (US Patent 6769013) further in view of Schneider (US 6990459) further in view of Weigelt (US Patent 5712782).

While Frees-Schneider substantially disclosed the claimed invention Frees-Schneider did not disclose (re. Claims 26,32) means for remote diagnostic monitoring for machines by respective manufactures.

While Frees-Schneider substantially disclosed the claimed invention Frees-Schneider did not disclose (re. Claims 27,33) means for providing weather predictions for planning a use of harvesting machines.

While Frees-Schneider substantially disclosed the claimed invention Frees-Schneider did not disclose (re. Claims 28,34) means for providing information for operators of drying plants for planning drying and storage capacity.

While Frees-Schneider substantially disclosed the claimed invention Frees-Schneider did not disclose (re. Claims 29,35) means for providing a data exchange between harvesting machines.

While Frees-Schneider substantially disclosed the claimed invention Frees-Schneider did not disclose (Claim 30, 31, 36, 37) means for providing information about product properties and conditions of products to be processed.

Weigelt disclosed (re. Claims 26,32) means for remote diagnostic monitoring for machines by respective manufactures. (Weigelt-Column 6 Lines 10-25, Column 8 Lines 5-15)

Weigelt disclosed (re. Claims 27,33) means for providing weather predictions for planning a use of harvesting machines. (Weigelt-Column 7 Lines 40-55)

Weigelt disclosed (re. Claims 28,34) means for providing information for operators of drying plants for planning drying and storage capacity. (Weigelt-Column 5 Lines 40-60)

Weigelt disclosed (re. Claims 29,35) means for providing a data exchange between harvesting machines. (Weigelt-Column 2 Lines 25-45)

Weigelt disclosed (Claim 30, 31, 36,37) means for providing information about product properties and conditions of products to be processed. (Weigelt-Column 5 Lines 40-60, '*determine conveying capacity*')

Frees, Schneider and Weigelt are analogous art because they present concepts and practices regarding regarding agricultural and food business entities. At the time of the invention it would have been obvious to a person of ordinary skill in the networking

art to combine Weigelt into Frees-Schneider. The motivation for said combination would have been to adjust the operation of the combine autonomously without undue burden to the operator. (Weigelt -Column 6 Lines 50-65)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Frees (US Patent 6769013) further in view of Schneider (US 6990459) as applied above, and further in view of Curkendall (US Patent 6995675).

While Frees-Schneider substantially disclosed the claimed invention, Frees did not disclose (re. Claim 15) wherein said stationary unit or said mobile unit have sensors for generating receiver-specific information, and said receiver-specific information is made available to at least one service provider and/or at least one further receiver by

means of said at least one data exchange system.

Curkendall disclosed (re. Claim 15) wherein said stationary unit or said mobile unit have sensors for generating receiver-specific information, (Curkendall-Column 21 Lines 15-25) and said receiver-specific information is made available to at least one service provider and/or at least one further receiver by means of said at least one data exchange system. (Curkendall-Column 21 Lines 55-60)

Frees,Schneider and Curkendall are analogous art because they present concepts and practices regarding collaboration and knowledge exchanges. At the time of the invention it would have been obvious to a person of ordinary skill in the networking art to combine Curkendall into Frees-Schneider. The motivation for said combination would have been to provide data collection in a seamless manner. (Curkendall-Column 5 Lines 55-60)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7,9-11, 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frees (US Patent 6769013) further in view of Schneider (US 6990459) as applied above, and further in view of Rothkopf (US Publication 2002/0049727).

While Frees-Schneider substantially disclosed the invention as claimed, Frees-Schneider did not disclose (re. Claim 7) wherein said service of said server comprises referring to at least one other service of at least one other server and/or to sub-service providers.

Rothkopf disclosed (re. Claim 7) wherein said service of said server comprises referring to at least one other service of at least one other server and/or to sub-service providers. (Rothkopf-Paragraph 97-98)

Frees,Schneider and Rothkopf are analogous art because they present concepts and practices regarding collaboration and knowledge exchanges. At the time of the invention it would have been obvious to combine Rothkopf into Frees-Schneider. The motivation for said combination would have been to provide highly customized information sharing between users of common interest. (Rothkopf-Paragraph 5)

Claim 23 is rejected on the same basis as Claim 7.

Frees-Schneider-Rothkopf disclosed (re. Claim 9,24) wherein said service of said server provides additional information that is not expressly required by said receiver, which increases service quality provided by said server. (Rothkopf-Paragraph 78)

Frees-Schneider-Rothkopf disclosed (re. Claim 10,25) wherein said server providing said service obtains said additional information by retrieving said additional information from another service provided by another service provider. (Rothkopf-Paragraph 78)

Frees-Schneider-Rothkopf disclosed (re. Claim 11) wherein services of a plurality of service providers are made available to said receiver by said server and/or a selection of said services is made available to said receiver by a number of different service providers. (Rothkopf-Paragraph 97-98)

### ***Response to Arguments***

Applicant's arguments filed 08/07/2008 have been fully considered but they are moot in view of the new grounds for rejection.

The Applicant presents the following argument(s) [*in italics*]:



*... the described specific features are directed to mathematical methods for calculating an increased profit. The patent to Schneider discloses neither specific nor general technical features corresponding to the invention disclosed in the present application and defined in the amended claims.*

The Examiner respectfully disagrees with the Applicant.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *methods for calculating an increased profit*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

The Examiner notes that with respect to the limitation '*answer data sets for optimizing an employment of machines*', the claim language does not indicate wherein the user is able to use said answer data set for an optimal result in the agricultural process. There is no agricultural process or result in the claim language, and furthermore there is no process resulting in an increased profit.

The Examiner is not assigning patentable weight to the information contained in the answer data set because said information has no bearing on the results produced by the claims.

### ***Conclusion***

**Examiner's Note:** Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Bengzon whose telephone number is (571) 272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571)272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. B./

Examiner, Art Unit 2444

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/Paul H Kang/

Primary Examiner, Art Unit 2444